

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

MARK D. STROUD

§

VS.

§

CIVIL ACTION NO. 1:12cv266

DIANNA C. CHAISON

§

ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Mark D. Stround, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed the above-styled civil rights lawsuit against Dianna C. Chaison.

The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends the lawsuit be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m) because plaintiff was unable to provide the court with an address at which the defendant could be served with process.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

The United States Marshals Service unsuccessfully attempted to serve the defendant by certified mail at the address provided to the court by the Texas Attorney General's office. Plaintiff was unable to provide the court with a different address. After the Report and Recommendation was submitted, the court ordered the Marshals Service to attempt to serve the defendant in person. The return of service filed indicates that while a deputy marshal made three trips to the address provided to the court, he was unable to find the defendant at that address.

Plaintiff asserts that as he is incarcerated, he is unable to provide an address for the defendant without assistance from the Texas Attorney General's office or the Marshals Service. However, the Attorney General's office has already provided the court with the defendant's last known address. Further, while the Marshals Service is responsible for serving process for a plaintiff proceeding *in forma pauperis*, plaintiff is responsible for providing the Marshals Service with a correct address. *Laurence v. Wall*, 551 F.3d 92, 94 (1st Cir. 2008); *Fields v. Oklahoma State Penitentiary*, 511 F.3d 1109, 1113 (10th Cir. 2007); *Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993); *Stout v. Thaler*, 2010 WL 1404227 (S.D. Tex. Mar. 30, 2010). As plaintiff was unable to provide a correct address for the defendant, the Magistrate Judge correctly recommended that this case be dismissed.

#### ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

So **ORDERED** and **SIGNED** this **2** day of **May, 2015**.



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Ron Clark, United States District Judge